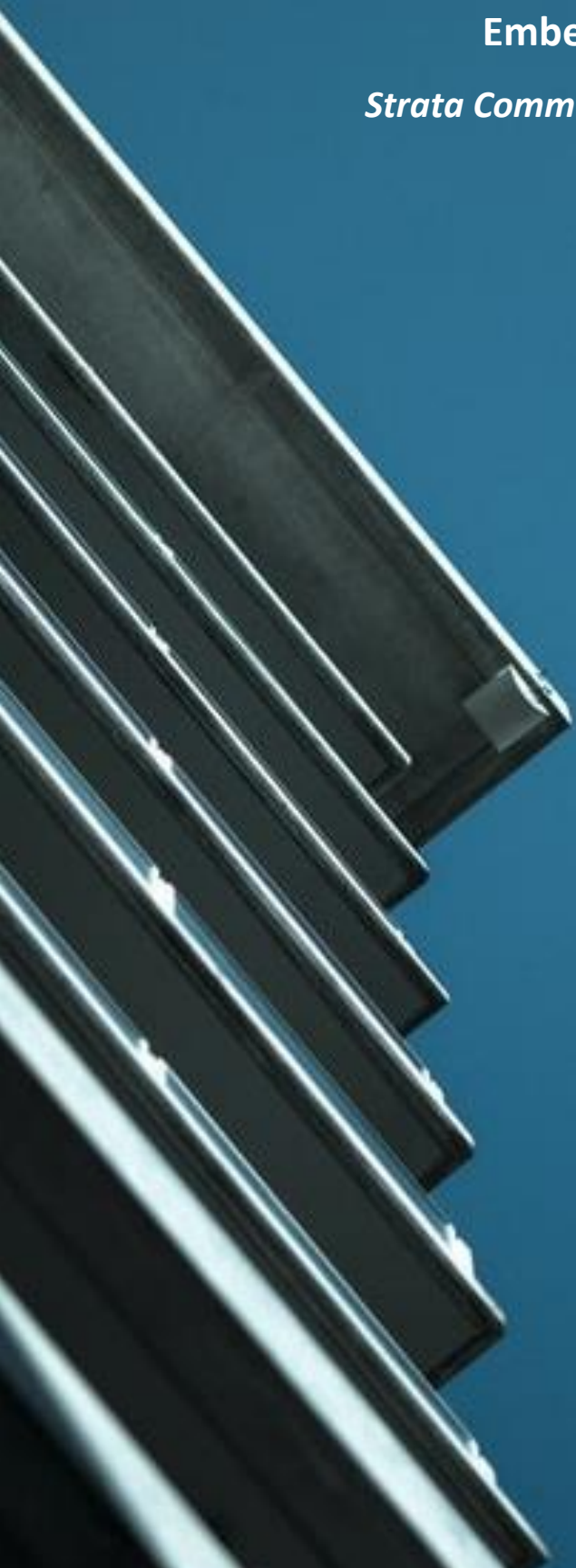


Embedded Networks Review

Strata Community Association (Vic) Submission

26 February 2021



Introduction

Strata Community Association (Vic) Ltd is the peak body for the Owners Corporations sector, which comprises residential properties ranging from two units in a suburban street to many hundreds of units in inner city apartment buildings. Owners Corporations represent property valued at over \$300 billion dollars and encompass commercial, retail, lifestyle resorts, retirement villages, car parks, storage facilities, industrial and, increasingly, mixed developments. More than \$1 billion per year is collected and spent. There are currently more than 85,000 active owners corporations in Victoria, covering more than 772,000 individual lots. It is estimated that around 1.5 million Victorians — a quarter of the state's population — either live in, or own property in, an owners corporation.

Background – Strata Community Association (Vic)

SCA Victoria was established in 1990, it succeeds Owners Corporations Victoria (OCV) and Institute of Body Corporate Managers Victoria (IBCMV). SCA (Vic) members comprise more than 80 per cent of all professional owners corporation managers, with over 800 members managing upwards of 450,000 lots. SCA (Vic) Associate members are industry suppliers, including waste management providers, Essential Safety Measures managers, quantity surveyors, insurers, lawyers, accountants, facility managers, property valuers, building maintenance and tradespeople. Members benefit from representation, support, advice, and promotion. With Continuing Professional Development (CPD), Best Practice Guidelines on regulatory and legislative amendments, updates on VCAT determinations and emerging issues, SCA members are best placed to manage OCs and empower Lot Owners and occupiers.

In Victoria, the Owners Corporations Act 2006 defines an Owners Corporation as a 'body corporate which is incorporated by registration of a plan of subdivision or a plan of strata or cluster subdivision.' The individual Lot Owners form a collective known as an Owners Corporation (OC). This is a legal entity which must comply with its governing legislation and enabled regulations. Owners Corporations can choose to appoint a registered manager who will act on their direction, including engaging contractors for maintenance and repairs, on behalf of the OC. The responsibility to maintain common property and shared services is that of the owners corporation. The manager assists the OC to meet these and other obligations. As part of the Annual General Meeting, Lot Owners collectively agree on a budget to fund the ongoing maintenance and shared service costs. Items agreed can include the management fee, caretaking costs including gardening, utility charges, repairs to essential services, insurance premiums and waste management expenses. These are funded through fees/levies.

For further information about this consultation, please contact Shaun Brockman, National Policy and Advocacy Manager, SCA. Shaun.brockman@strata.community.

SCA (Vic)'s Response to the Embedded Networks Review

SCA Submission Highlights

SCA (Vic) recognises the importance of the Embedded Networks Review as the first step towards ensuring that lot owners, owners corporations and residents currently using embedded networks are afforded the same choices, consumer rights and protections as those using non-embedded energy supply networks.

SCA supports the establishment of a bespoke framework for Victoria, drawing upon recommendations made by the Australian Energy Market Commission's (AEMC) *Retail Energy Competition Review* (2019). The review specifically recognises the unfair situation facing embedded network users given the nature of existing supply arrangements and an inability for said users to easily switch providers based on a **competitive price, creating disproportionately high costs, which are ultimately passed on from owners to tenants.**

The AEMC's framework serves as an example of how embedded network users such as those in other states and territories can be afforded greater access to a competitive energy market, with the result of lower costs to building owners and residents. In 2019, the AEMC recommended provisions of the framework concerning embedded networks be reviewed ahead of potential approval and implementation in New South Wales, South Australia, and South-East Queensland in the future. SCA recommends that any future changes to embedded network regulations made by the Victorian Essential Services Commission should follow this framework.

In advocating for appropriate reform of embedded network regulations, SCA also recognises the **importance of ensuring adequate protection of legacy embedded networks** are considered in legislative changes. Appropriate support measures geared toward retrofitting existing networks where possible, categorising existing embedded network fixtures under any new regulations, or increased penalties for non-compliance by operators of embedded networks to existing and future regulations, should be considered.

SCA has provided comment to many of the questions posed in the review paper, with particular focus on the proposed definition of a 'microgrid'. It is important that as a means of ensuring clarity in the regulations, that a comprehensive and detailed criterion is established so that embedded network users are not unfairly targeted by these changes in the future regarding adequacy of existing infrastructure.

SCA Responses to Consultation Questions

Q1. What processes exist to ensure the interests of owners and occupants are considered at the start of, and throughout, the embedded network design lifecycle?

Under the Owners Corporation Act 2006, the initial owners has a duty to:

- act honestly, in good faith and with due care and diligence in the interests of the owners corporation.
- take all reasonable steps to enforce any domestic building contract that affects the owners corporation.

There are no enforcement mechanisms in place to enforce these provisions.

Q3. What do you consider to be an appropriate definition for a microgrid?

A number of minimum requirements should be met to determine qualification as a microgrid, including:

- It must have one or more forms of local energy generation.
- It must be able to disconnect from the national grid and operate independently.
- It must have a technical management system which manages the generators, batteries, or energy systems effectively.

If the government is seeking to employ a more specific definition, here is a simple example:

A microgrid is a localised energy grid with control capability, which means it can disconnect from distribution or transmission grids to potentially operate autonomously.

Q4. What is the most effective way to offer an exemption for microgrids? How can the proposed exemption pathway for microgrids ensure the benefits of microgrids are passed onto customers?

A microgrid differs from an embedded network in that it is generally used on commercial or communal properties. Microgrids are often established as a means of ensuring energy security for a property, lower running cost and greater sustainability. Properties such as campuses, military bases, shopping centres, factories and hospitals may use microgrids to ensure no disruption of supply in the event of a potential outage.

A criteria-based approach to defining microgrids, considering current capabilities of the technology in this area, should be adopted.

Q6. What are the most important protections to be extended to embedded network customers?

Embedded network users are entitled to the same consumer rights and protections and access to competitive energy prices as those using non-embedded network customers. These rights should include shorter contract lengths with no automatic rollover, greater disclosure from providers and accountability, and access to a competitively priced energy market.

Customers should be able to engage in full retail choice, removing the current limitations for a customer to go on-market to find the best price. Very simply, the same protections offered to a market retail customer should be offered to an embedded network's customer, and they should attract commensurate levels of policing for compliance and penalties for non-compliance.

For legacy networks, the government should consider a generous transition period for existing embedded networks to comply with new rules and regulations. Even though applying a transition period may be onerous for existing customers, it will be the best way to ensure the customers using those networks are granted the protections and rights that new providers enjoy.

Alternatively, where cost considerations obstruct the prospects of timely implementation, SCA recommends that legacy networks should be grandfathered into any future regulations.

Q11. What are the main practical barriers to customers in embedded networks accessing retail market competition? How can these barriers be removed? Are there any issues specific to customers in long-term caravan parks and other residential embedded network settings?

At present, users of embedded networks face a lack of oversight, with no requisite ability to liaise with the ombudsman unless the OC has joined the ombudsman's scheme. This is detrimental to efforts to resolve disputes which may arise with providers. There is a disparity between this circumstance and the circumstances of non-embedded network users, which do have the capability to access these resources.

Embedded network users are not able at present to access effective arrangements to meet distribution costs settlements with energy providers and embedded operators, should a user go on-market. Additionally, there is a detrimental effect of a lack of discoverability of embedded network users. These in turn increases costs for energy providers and discourages offers, as well as needlessly increasing consumer costs.

While in theory, embedded network users may be able to access licensed retailers, there is no incentive for said retailers to render services to these users due to the issues of cost surrounding network infrastructure, as well as the way this market is structured.

Parity in conditions between embedded network users and retail users will eliminate those barriers.

By default, many embedded network users are designated as being 'off market' to operators and providers, resulting in effective split-billing for distribution and service charges upon changing this status to 'on-market'. Resolution of this issue is automated and between the provider and operator businesses, remaining invisible to the consumer.

Embedded Network Operators in Victoria are currently not required at the time of writing to be registered; the AEMC framework recommends the introduction of an “Authorised On-Selling Retailer” to address this issue and SCA recommends that this measure should be adopted in Victoria.

The proposed AEMC framework addresses all of these barriers, while increasing consumer access to a freer and fairer energy market.

Some of the more practical, on the ground barriers include:

- The cost of meter replacement from private to market metering – who bears the cost?
- It is far more difficult for energy retailers to ‘discover’ off-market customers with their information systems, making it more expensive to target customers.
- Network distribution obligations are not well developed, and often customers going on-market, can end up with two bills (i.e., energy retailer’s charges plus the embedded network operator’s distribution charges), creating administrative strain for energy retailers and associated services.
- The proposed national framework by the AEMC will deliver greater choice and reduce barriers such as metering.

The major barriers to market competition are conditions faced by the two sets of users.

Q12. What would be the best way to ensure embedded network customers can access competitive price outcomes?

Shortening contract lengths and ensuring no automatic rollover mechanisms in energy contracts for embedded network users, implemented in tandem with the rest of the AEMC framework, will allow greater oversight and ensure the enforcement of accountability of energy providers serving these customers. Creating equal rights between embedded and non-embedded customers is critical.

Q16. How are financial benefits of embedded networks shared between the developer, the third-party service provider and the customer in practice?

There are many different models, here is a brief run down for each:

1. In a for-profit scheme, parties external to the scheme set the rates and benefit from the profits generated.
2. In a for-profit scheme where parties external to the site *and* the owners corporation set the rates and share the profits.
3. In a for-profit scheme exclusively run by OC, the rates set by OC and benefit from the profits generated are to pay for infrastructure maintenance and replacement.
4. Not for profit scheme exclusively run by OC - the rates are set by the OC and are to achieve the goals of the OC for example sustainability purchasing green power or choosing the invest in the delivery of cheapest energy options.
5. Owners Corporations have converted existing buildings to an embedded network based on their strategic goals for their communities.

Q24. What aspects of the AEMC’s proposal, if any, should apply in Victoria? Why? Why not?

SCA recommends that a majority of the AEMC framework should be adopted in Victoria, either standalone or incorporated into future legislation governing the standards of embedded networks. Alternatively, a national approach based upon the AEMC framework should be adopted in lieu of separate rules and regulations pertaining to individual jurisdictions.

Provisions in the AEMC framework allowing greater consumer choice and access to market competition for embedded network users, with due diligence done to protect users of legacy networks, through grandfathering, support for retrofitting or increasing penalties for non-compliance of their operators in meeting regulations should be considered by the Department.

For further information about this consultation, please contact Shaun Brockman, National Policy and Advocacy Manager, SCA. Shaun.brockman@strata.community.